United Nations A/C.3/59/SR.49

General Assembly
Fifty-ninth session

Official Records

Distr.: General
31 January 2005
English
Original: French

Third Committee

Summary record of the 49th meeting
Held at Headquarters, New York, on Friday, 19 November 2004, at 3 p.m.

Chairman : Mr. Kuchinsky. . . . . (Ukraine)

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04-61560 (E)

The meeting was called to order at 3.20 p.m.

Agenda item 104: Right of peoples to self determination *(continued)* (A/C.3/59/L.68)

Draft resolution A/C.3/59/L.68: Use of mercenaries as a means of violating human rights and impeding the exercise of the right of peoples to self-determination

1. **Mr. Khane** (Secretary of the Committee) read out the programme budget implications of the draft resolution. He called the Committee's attention to decision 2004/248, in which the Economic and Social Council (ECOSOC) had given its approval for convening a third meeting of experts on traditional and new forms of mercenary activities as a means of impeding the exercise of the right of peoples to self-determination, and said that the programme budget implications of that decision were stated in the Secretary-General's report contained in document A/59/393. The Secretariat had recently reviewed the situation and concluded that the funds already allocated were sufficient for meeting any additional needs and no supplementary appropriation would be necessary for that purpose. With regard to operative paragraph 17 of the draft resolution, the Secretary pointed out that funds to be allocated to the activities of Special Rapporteurs had already been included in the programme budget for the biennium 2004-2005 and therefore no additional appropriation would be necessary, if the draft resolution were adopted. The Secretary called the Committee's attention to the provisions of section VI of General Assembly resolution 45/248 B.

2. **Mr. Ekua Avomo** (Equatorial Guinea) announced that his country had become a sponsor of the draft resolution because, on 7 March 2004, Equatorial Guinea had experienced an attempted invasion by mercenaries. The use of mercenaries represented a threat to the security and stability of developing countries and its upsurge was of great concern, in particular to African countries. Mercenary activities were one of many forms of terrorism and should therefore be combated with the resolve displayed in combating other types of terrorist acts. The speaker proposed that the draft resolution should contain a specific reference to the attempted invasion of his country.

3. **The Chairman** announced that Botswana, the Comoros, the Democratic Republic of the Congo, Eritrea, Kenya, the Libyan Arab Jamahiriya, Malawi, Pakistan, Togo, Venezuela and Zambia had become sponsors of the draft resolution and recalled that, at the time of introduction of the draft resolution, Cuba had proceeded to replace Chile with China in the list of sponsors.

4. **Mr. Cumberbatch Miguén** (Cuba), referring to the provisions of paragraph 12 of the text, said that the use of mercenaries continued to impede the exercise of the right of peoples to self-determination and was often seen as a means for interfering in the domestic affairs of States, and in particular of developing countries. Regarding the proposal made by Equatorial Guinea, he referred that country's representative to paragraph 9 of the draft resolution. The speaker announced that, in addition to Equatorial Guinea, Benin, Cambodia, the Dominican Republic, Gambia and the United Republic of Tanzania had become sponsors, and urged all delegations to support the draft resolution.

5. **Mr. Khane** (Secretary of the Committee) announced that Sierra Leone, Somalia and Swaziland had become sponsors of the draft resolution.

6. **The Chairman** requested the representative of Equatorial Guinea to make clear his position on the draft resolution.

7. **Mr. Ekua Avomo** (Equatorial Guinea) stated that his delegation was satisfied with the explanations provided by the representative of Cuba and had consequently decided to withdraw the amendment that it had proposed.

8. **Mr. Cumberbatch Miguén** (Cuba) thanked the representative of Equatorial Guinea for his understanding and reaffirmed Cuba's full solidarity with Equatorial Guinea and all African countries, which it continued to support in their combat against mercenary activities, apartheid and colonialism.

9. **The Chairman** stated that a recorded vote would be taken.

10. **Mr. Cumberbatch Miguén** (Cuba) asked the Chairman which country had requested the recorded vote.

11. **The Chairman** said that the recorded vote had been requested by the delegation of the United States.

12. **Mr. Fox** (United States) said that his delegation would vote against the draft resolution. While deploring the use of mercenaries, which in most cases was closely linked to terrorism and criminal activity, and noting that United States soldiers and civilians had been victims of attacks carried out by mercenaries, the United States believed that discussions about mercenaries should take place in the Security Council and that it was inappropriate for the Third Committee to spend its valuable time on that topic.

13. **Mr. Hof** (Netherlands), speaking on behalf of the European Union, the candidate countries Bulgaria, Croatia, Romania and Turkey, and the countries of the Stabilization and Association Process and potential candidates Albania, Bosnia and Herzegovina, the former Yugoslav Republic of Macedonia and Serbia and Montenegro, and also Iceland and Norway, said that the European Union shared many of the concerns expressed in the Special Rapporteur's report (A/59/191), recognized the dangers of mercenary activities and their impact on the nature and duration of armed conflicts, and condemned the use of mercenaries. It believed, however, that the Third Committee was not the right forum for discussing such issues and that the Office of the United Nations High Commissioner for Human Rights (OHCHR) should not be requested to devote attention and resources to the subject on a priority basis: the issue of the use of mercenaries should not be approached primarily as a human rights problem and as a threat to the right of peoples to self-determination. The relation between terrorism and mercenary activities fell within the competence not of the Third Committee but of the Sixth Committee, and so did the legal definition of the term "mercenaries". The European Union reaffirmed its determination to continue to participate - actively and in the appropriate fora - in the dialogue on ways to curb the threats posed by mercenary activities.

14. *A recorded vote was taken on the draft resolution.*

In favour:

Afghanistan, Algeria, Angola, Antigua and Barbuda, Argentina, Armenia, Azerbaijan, Bahamas, Bahrain, Bangladesh, Belarus, Belize, Bhutan, Bolivia, Botswana, Brazil, Brunei Darussalam, Burkina Faso, Burundi, Cambodia, Cameroon, Cape Verde, Chile, China, Colombia, Congo, Costa Rica, Cuba, Democratic People's Republic of Korea, Democratic Republic of the Congo, Djibouti, Dominican Republic, Ecuador, Egypt, El Salvador, Equatorial Guinea, Eritrea, Ethiopia, Gabon, Gambia, Ghana, Grenada, Guatemala, Guinea-Bissau, Guyana, Haiti, Honduras, India, Indonesia, Iran (Islamic Republic of), Jamaica, Jordan, Kenya, Kuwait, Kyrgyzstan, Lao People's Democratic Republic, Lebanon, Lesotho, Libyan Arab Jamahiriya, Madagascar, Malawi, Malaysia, Maldives, Mali, Mauritania, Mauritius, Mexico, Mongolia, Morocco, Mozambique, Myanmar, Namibia, Nepal, Nicaragua, Niger, Nigeria, Oman, Pakistan, Panama, Paraguay, Peru, Philippines, Qatar, Russian Federation, Rwanda, Saint Lucia, Saint Vincent and the Grenadines, Samoa, Saudi Arabia, Senegal, Sierra Leone, Singapore, Solomon Islands, Somalia, South Africa, Sri Lanka, Sudan, Suriname, Swaziland, Syrian Arab Republic, Tajikistan, Thailand, Togo, Trinidad and Tobago, Tunisia, Uganda, United Arab Emirates, Uruguay, Venezuela, Vietnam, Yemen, Zambia, Zimbabwe.

Against:

Albania, Andorra, Austria, Belgium, Bosnia-Herzegovina, Bulgaria, Canada, Croatia, Cyprus, Czech Republic, Denmark, Estonia, Finland, France, Georgia, Germany, Greece, Hungary, Iceland, Ireland, Israel, Italy, Japan, Latvia, Lithuania, Luxembourg, Malta, Marshall Islands, Micronesia (Federated States of), Monaco, Netherlands, Norway, Palau, Poland, Portugal, Romania, Serbia and Montenegro, Slovakia, Slovenia, Spain, Sweden, the former Yugoslav Republic of Macedonia, Turkey, United Kingdom of Great Britain and Northern Ireland, United States.

Abstaining:

Australia, Kazakhstan, Liechtenstein, New Zealand, Republic of Korea, Republic of Moldova, San Marino, Switzerland, Ukraine, Uzbekistan.

15. ***The draft resolution was adopted by 115 votes to 44, with 10 abstentions****.

* The delegation of Barbados subsequently informed the Committee that, had it been in the room when the vote was taken, it would have voted in favour of the text.

16. **Mr. D'Alotto** (Argentina) said that his delegation had voted in favour of the draft resolution, but considered that the reference made in the fourth preambular paragraph to the principle of the right of peoples to self-determination was inappropriate in that context in view of the absence of any reference to the relevant United Nations resolutions on decolonization and on special situations such as the one in the Falkland Islands.

Agenda item 105: Human rights questions *(continued)*

(b) Human rights questions, including alternative approaches for improving the effective enjoyment of human rights and fundamental freedoms *(continued)* (A/C.3/59/L.43, A/C.3/59/L.64/Rev.1 and A/C.3/59/L.66)

Draft resolution A/C.3/59/L.43: Strengthening United Nations action in the field of human rights through the promotion of international cooperation and the importance of non-selectivity, impartiality and objectivity

17. **The Chairman** said that the draft resolution had no programme budget implications and announced that the following countries had become sponsors: Bangladesh, Burkina Faso, Cameroon, China, Colombia, Congo, Democratic Republic of the Congo, Eritrea, Ethiopia, Indonesia, Iran (Islamic Republic of), Lao People's Democratic Republic, Libyan Arab Jamahiriya, Kenya, Madagascar, Malawi, Mauritius, Mozambique, Namibia, Nigeria, Russian Federation, South Africa, Sudan, Syrian Arab Republic, Togo, Venezuela, Zambia and Zimbabwe.

18. **Mr. Cumberbatch Miguén** (Cuba), referring to the fourth and sixth preambular paragraphs of the draft resolution, stressed that the consideration of human rights issues should be based on the principles of universality, objectivity and non-selectivity, and should not be exploited for political purposes. He announced that the following countries had become sponsors: Angola, Benin, Burundi, Cambodia, Egypt, El Salvador, Malaysia, Pakistan, Saint Vincent and the Grenadines, Suriname, Swaziland, Tunisia, Turkmenistan and United Republic of Tanzania.

19. **Mr. Khane** (Secretary of the Committee) announced that Botswana, Grenada and Somalia had also become sponsors.

20. *Draft resolution A/C.3/59/L.43 was adopted without a vote.*

Draft resolution A/C.3/59/L.64/Rev.1: The right to food

21. **Mr. Khane** (Secretary of the Committee) read out the programme budget implications of the draft resolution. He noted that the mandate of the Special Rapporteur of the Commission on Human Rights on the right to food fell into the category of perennial activities. Since funds to be allocated to activities of that type were already included in the programme budget for the biennium 2004-2005, no supplementary appropriations would be necessary, if the draft resolution were adopted. The Secretary called the Committee's attention to the provisions of section VI of General Assembly resolution 45/248 B.

22. **The Chairman** recalled that the following countries had become sponsors at the time of introduction of the draft resolution: Austria, Bulgaria, Burkina Faso, Cape Verde, Cyprus, Finland, France, Germany, Greece, Guinea, Indonesia, Iceland, Ireland, Italy, Kenya, Lesotho, Malaysia, Nick Powell, Nicaragua, Norway, Philippines, Portugal, San Marino, Saint Vincent and the Grenadines, Slovenia, South Africa, Suriname, the Former Yugoslav Republic of Macedonia and United Republic of Tanzania.

23. **Mr. Cumberbatch Miguén** (Cuba), underscoring the fundamental right of every person to be free from hunger, referred to the second and third preambular paragraphs of the draft resolution and to the Brazilian President's statement that poverty was the worst of all weapons of mass destruction and that urgent action was necessary to definitively eradicate hunger. Stating that Malaysia should not be listed as a sponsor, he announced that Armenia, Belgium, Belize, Bolivia, Bosnia-Herzegovina, Croatia, Grenada, Kazakhstan, Lebanon, Lithuania, Saint Kitts and Nevis, Spain and Switzerland had become sponsors and urged all delegations to vote in favour of the text.

24. **Mr. Khane** (Secretary of the Committee) announced that the following countries had become sponsors of the draft resolution: Chile, Dominican Republic, Haiti, Jamaica, Liechtenstein, Somalia, Swaziland, Tajikistan, Timor Leste, Trinidad and Tobago and Tunisia.

25. **Ms. Astanah Banu** (Malaysia), speaking in explanation of vote before the voting, said that

Malaysia was unable to cosponsor the text, because, in informal consultations with the main sponsor, it had been impossible to accommodate some concerns that Malaysia had voiced. If, however, the draft resolution were put to the vote, Malaysia would vote in favour of the text.

26. **Ms. García-Matos** (Venezuela) reaffirmed Venezuela's resolve to eliminate hunger and food insecurity and recalled that Venezuela had proposed to set up the International Humanitarian Fund, which it had endowed with an initial capital of US$30 million and which enjoyed the support of the international community.

27. **The Chairman** stated that a recorded vote would be taken.

28. **Mr. Cumberbatch Miguén** (Cuba) asked the Chairman which country had requested the recorded vote.

29. **The Chairman** said that the recorded vote had been requested by the delegation of the United States.

30. **Ms. Zack** (United States), speaking in explanation of vote before the voting, said that the United States had proven by its action its profound commitment to promoting food security around the world, but her delegation could not support the resolution as drafted, because the attainment of any "right to adequate food" or any "right to be free from hunger" was a goal to be realized progressively and did not give rise to any international obligation or diminish the responsibility of national Governments to their citizens. As earlier resolutions, the current draft resolution contained numerous objectionable provisions, including an inaccurate textual description of the underlying right and unduly positive references to the general comment 12 (1999) released by the Committee on Economic, Social and Cultural rights and to some activities of the Special Rapporteur. Moreover, the New York Declaration referred to in operative paragraph 9 was not a United Nations document and did not have the support of all Member States. The United States delegation reiterated its hope that in future years the sponsors of the text would accommodate its concerns, so that it could support a resolution on that important subject.

31. **Ms. Kalay-Kleitman** (Israel) reaffirmed that, regarding the right to food, attention should not be focused unfairly to certain locations in order to further political agendas. Recalling Israel's response to the report (A/59/385), on which the draft resolution was based, he thought it troublesome that such emphasis had been placed on the West Bank and Gaza, while other regions actually considered by the United Nations and the Food and Agriculture Organization of the United Nations (FAO) to be confronted with severe food emergencies, had essentially been ignored. Israel could not support a resolution that lent credence to a report condemning Israel without taking account of the context and misrepresented the conflict as one in which only one side had rights while the other side had responsibilities. Had the Special Rapporteur attempted to fulfil his mandate in a professional and balanced way, drawing attention to hunger in various parts of the world rather than focusing on his own political fixations, the outcome could have been positive. The way to improve the humanitarian situation was not politicized reports and one-sided resolutions but balanced and pertinent action. Israel, committed to the goal of ensuring the exercise of the right to food throughout the world, was working hard to address the food shortages faced by the Palestinian people.

32. *A recorded vote was taken on the draft resolution.*

In favour:

Afghanistan, Albania, Algeria, Andorra, Angola, Antigua and Barbuda, Argentina, Armenia, Australia, Austria, Azerbaijan, Bahamas, Bahrain, Bangladesh, Barbados, Belarus, Belgium, Belize, Bhutan, Bolivia, Bosnia-Herzegovina, Botswana, Brazil, Brunei Darussalam, Bulgaria, Burkina Faso, Burundi, Cambodia, Cameroon, Canada, Cape Verde, Chile, China, Cyprus, Colombia, Congo, Costa Rica, Croatia, Cuba, Czech Republic, Democratic Republic of the Congo, Denmark, Djibouti, Dominican Republic, Ecuador, Equatorial Guinea, Egypt, El Salvador, Eritrea, Estonia, Ethiopia, Finland, France, Gabon, Gambia, Georgia Germany, Ghana, Greece, Grenada, Guatemala, Guinea-Bissau, Guyana, Haiti, Honduras, Hungary, Iceland, India, Indonesia, Iran (Islamic Republic of), Iraq, Ireland, Italy, Jamaica, Japan, Jordan, Kazakhstan, Kenya, Kuwait, Kyrgyzstan, Lao People's Democratic Republic, Latvia, Lebanon, Lesotho, Libyan Arab Jamahiriya, Liechtenstein, Lithuania, Luxembourg, Madagascar, Malaysia, Malawi, Maldives, Mali, Malta, Morocco,

Mauritius, Mauritania, Mexico, Monaco, Mongolia, Mozambique, Myanmar, Namibia, Nepal, Netherlands, Nicaragua, Niger, Nigeria, Norway, New Zealand, Oman, Pakistan, Panama, Papua New Guinea, Paraguay, Peru, Philippines, Poland, Portugal, Qatar, Republic of Korea, Republic of Moldova, Romania, Russian Federation, Rwanda, Saint Lucia, San Marino, Saint Vincent and the Grenadines, Samoa, Saudi Arabia, Senegal, Serbia and Montenegro, Sierra Leone, Singapore, Slovakia, Slovenia, Solomon Islands, Somalia, South Africa, Spain, Sri Lanka, Sudan, Suriname, Swaziland, Sweden, Switzerland, Syrian Arab Republic, Tajikistan, Thailand, the Former Yugoslav Republic of Macedonia, Timor Leste, Togo, Trinidad and Tobago, Tunisia, Turkmenistan, Turkey, Uganda, Ukraine, United Arab Emirates, United Kingdom of Great Britain and Northern Ireland, Uruguay, Uzbekistan, Venezuela, Vietnam, Yemen, Zambia, Zimbabwe.

Against:

Israel, United States of America.

Abstaining:

None.

33. *Draft resolution A/C.3/59/L.64/Rev.1 was adopted by 167 votes to 2.*

34. **Mr. Takase** (Japan) explained that his delegation had voted in favour of the draft resolution but wished to make clear its position on operative paragraph 9 by recalling that it had expressed a reservation over the language employed in that paragraph.

35. **Mr. Pak** Tok Hun (Democratic People's Republic of Korea) said that his Government had in recent years given priority to solving food shortages in the country and was actively involved in the international community's efforts to ensure the exercise of the right to food. His delegation, however, found unacceptable the paragraphs on the Democratic People's Republic of Korea in the interim report of the Special Rapporteur on the right to food (A/59/385), to which operative paragraph 12 of the text referred, and consequently had not in the current year participated in the vote on the draft resolution. Recalling his delegation's earlier comments, according to which the Special Rapporteur had not based his report on his own independent judgment but on information provided by malicious persons, he expressed hope that in the future the situation in his country would be presented fairly and objectively.

Draft resolution A/C.3/59/L.66: Respect for the purposes and principles contained in the Charter of the United Nations to achieve international cooperation in promoting and encouraging respect for human rights and for fundamental freedoms and in solving international problems of a humanitarian character

36. **The Chairman** said that the draft resolution had no programme budget implications and announced that the following countries had become sponsors: Angola, Belarus, Burkina Faso, Cameroon, Eritrea, Ethiopia, Iran (Islamic Republic of) Kenya, Lao People's Democratic Republic, Libyan Arab Jamahiriya, Malawi, Myanmar, Nigeria, Pakistan, Saint Lucia, Sudan, Venezuela and Zimbabwe.

37. **Mr. Cumberbatch Miguén** (Cuba) outlined the content of the draft resolution and announced that Cambodia, Cameroon, Malawi, Nigeria, Pakistan, Swaziland and the United Republic of Tanzania had become sponsors. He pointed out that in the ninth preambular and fourth operative paragraphs of the English version of the draft resolution, "international human rights and humanitarian law" should be replaced with "international human rights law and international humanitarian law". He also pointed out that the paragraph numbering was incorrect starting in operative paragraph 3 and should be changed in the text's final version. The Cuban delegation urged the other delegations to support the draft resolution.

38. **Mr. Khane** (Secretary of the Committee) announced that Grenada and Suriname had become sponsors.

39. **The Chairman** stated that a recorded vote would be taken.

40. **Mr. Cumberbatch Miguén** (Cuba) asked the Chairman which country had requested the recorded vote.

41. **The Chairman** said that the recorded vote had been requested by the delegation of the United States.

42. **Ms. Bakker** (Netherlands), speaking on behalf of the European Union in explanation of vote before the voting, said that his delegation would vote against the

draft resolution because the European Union was opposed to a selective use of the principles of the United Nations Charter, and the Third Committee was not the appropriate body for debating on the subject of the draft resolution, which had already been considered by the plenary and the Sixth Committee.

43. **Mr. Choi** (Australia), speaking on behalf of Canada and New Zealand, said that the draft resolution selectively cited and interpreted some articles of the United Nations Charter, attaching primary importance to the protection and promotion of sovereignty to the detriment of fostering human rights. Consequently, while respecting the principle of national sovereignty, Australia, Canada and New Zealand would vote against the draft resolution.

44. *A recorded vote was taken on draft resolution A/C.3/59/L.66 as orally revised.*

In favour:

Afghanistan, Algeria, Angola, Antigua in Barbuda, Azerbaijan, Bahamas, Bahrain, Bangladesh, Barbados, Belarus, Belgium, Belize, Bhutan, Bolivia, Botswana, Brunei Darussalam, Burkina Faso, Burundi, Cambodia, Cameroon, Cape Verde, China, Colombia, Congo, Costa Rica, Cuba, Democratic People's Republic of Korea, Democratic Republic of the Congo, Djibouti, Dominican Republic, Equatorial Guinea, Ecuador, Egypt, El Salvador, Eritrea, Ethiopia, Gabon, Gambia, Ghana, Grenada, Guatemala, Guinea-Bissau, Guyana, India, Indonesia, Iran (Islamic Republic of), Jamaica, Jordan, Kazakhstan, Kenya, Kuwait, Kyrgyzstan, Lao People's Democratic Republic, Lebanon, Lesotho, Libyan Arab Jamahiriya, Madagascar, Malaysia, Malawi, Maldives, Mali, Mauritius, Mauritania, Mexico, Mongolia, Morocco, Mozambique, Myanmar, Namibia, Nepal, Nicaragua, Niger, Nigeria, Oman, Pakistan, Panama, Papua New Guinea, Philippines, Qatar, Russian Federation, Rwanda, Saint Lucia, Saint Vincent and the Grenadines, Saudi Arabia, Senegal, Sierra Leone, Somalia, South Africa, Sri Lanka, Sudan, Suriname, Swaziland, Syrian Arab Republic, Tajikistan, Togo, Trinidad and Tobago, Tunisia, Turkmenistan, Uganda, United Arab Emirates, Uzbekistan, Venezuela, Vietnam, Yemen, Zambia, Zimbabwe.

Against:

Albania, in Dora, Armenia, Australia, Austria, Bosnia-Herzegovina, Bulgaria, Canada, Croatia, Cyprus, Czech Republic, Denmark, Estonia, Finland, France, Georgia, Germany, Greece, Honduras, Hungary, Iceland, Ireland, Israel, Italy, Japan, Latvia, Liechtenstein, Lithuania, Luxembourg, Malta, Marshall Islands, Micronesia (Federated States of), Monaco, Netherlands, Norway, New Zealand, Poland, Portugal, Republic of Korea, Republic of Moldova, Romania, Spain, Samoa, San Marino, Serbia and Montenegro, Slovakia, Slovenia, Sweden, Switzerland, the Former Yugoslav Republic of Macedonia, Turkey, Ukraine, United Kingdom of Great Britain and Northern Ireland, United States of America.

Abstaining:

Argentina, Brazil, Chile, Haiti, Iraq, Paraguay, Peru, Singapore, Thailand, Uruguay.

45. *Draft resolution A/C.3/59/L.66 was adopted by 106 votes to 54, with 10 abstentions.* *

Statements in exercise of the right of reply

46. **Mr. Trott** (United Kingdom of Great Britain and Northern Ireland), speaking in exercise of the right of reply, replied to Argentina's observation regarding the Falkland Islands. He said that the position of the United Kingdom of Great Britain and Northern Ireland on the issue was well known. It had been expressed in a detailed written statement provided in exercise of the right of reply by the Permanent Representative of the United Kingdom to the United Nations after the President of Argentina had addressed the General Assembly on 21 September 2004.

The meeting rose at 4.35 p.m.

* The Belgian delegation stated that, as a result of an electronic system failure, its vote had not been correctly recorded. It wished to vote against the draft resolution.